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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN B. CRUZ, JOSEPH Q. KRUKOWSKI,
RUBEN D. CRUZ, DOUG MURPHY, JOHN
COLE, TIM PENDERGAS, MANUEL BERTA0,
ROGER D. HAUSMAN, CHARLES WILCOX,
REBECCA MONTERO-SALCEDO, ANTHONY
SHERWOOD, RICHARD RUIZ, and all
others similarly situated,

Plaintiffs,

vs.

COUNTY OF FRESNO, STEVE MAGARIAN,
as SHERIFF,

Defendants.

NO. F-93-5070 REC JFM

APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ANCILLARY RELIEF;
MEMORANDUM AND
DECLARATIONS

Date: February 25, 1993
Time: 9:00 a.m.
Courtroom: No. 8

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1 Plaintiffs move for a temporary restraining order barring
2 defendants from:

- 3 1. Sleeping any prisoner on the floor;
4 2. Adding beds during the pendency of this action;
5 3. Denying prisoners access to outdoor exercise;
6 4. Denying access to monitor compliance; and
7 5. For such ancillary orders, including provisional class
8 certification, as the court deems necessary.

9 This application is based on the file in this court, the
10 attached declarations, such other declarations and exhibits as may
11 be filed before the hearing date and points and authorities.

12 MEMORANDUM

13 Plaintiffs move for a Temporary Restraining Order to promptly
14 alleviate the most inhumane of the conditions in the Fresno County
15 Jail, including the South Annex and the Main Jail. The jail are
16 so grossly overcrowded as to be an immediate danger to its
17 prisoners. The prisoners are sleeping on the floors. There are
18 as many as twenty men sleeping in cells with only twelve beds. The
19 stress, anxiety and tension caused by the severe overcrowding has
20 already led to rioting on the fifth floor of the Main Jail on
21 February 16, 1993. Many inmates and law enforcement personnel were
22 injured during the riot and hospitalized. The overcrowding must
23 be remedied before more riots break out.

24 In addition, the prisoners receive limited exercise which adds
25 to the restive behavior of the inmates because they have a very
26 limited outlet for their stresses and aggressions. The situation

1 is exacerbated by occasional cell flooding caused by clogged
2 toilets and significantly delayed response times by deputies when
3 notified of such emergencies. These conditions are so intolerable
4 that plaintiffs ask the court for immediately relief.

5 "If the public, through its judicial and penal system, finds
6 it necessary to incarcerate a person, basic concepts of decency,
7 as well as reasonable respect for constitutional rights, require
8 that he be provided a bed." Stewart v. Gates, 450 F.Supp. 583, 588
9 (C.D. Cal. 1978).

10 There is also a constitutional right to sufficient exercise
11 so that prisoners do not physically deteriorate. Toussaint v.
12 McCarthy, 597 F.Supp. 1388, 1424 (N.D. Cal. 1984).

13 In cases where prisoners' rights are clear, irreparable injury
14 (violation of constitutional rights) is certain, temporary
15 restraining orders are proper. Cf. National Prisoners Reform
16 Association v. Sharkey, 347 F.Supp. 1234 (D. R.I. 1972) (freedom
17 of association); Palmigiano v. Travisono, 317 F.Supp. 776 (317 F.
18 Supp. 778 (D. R.I. 1970 (prisoner mail)).

19 Temporary restraining orders have been granted to challenge
20 haircut regulations in the Army Reserve. Bellamy v. Froehlke, 347
21 F.Supp. 1241 (W.D. N.C. 1972) and qualifications of office holders.
22 Quinn v. State of Mo. 839 F.2d 425 (9th Cir. 1988) (nonproperty
23 owners not eligible to serve on City Board of Freeholders).

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1 WHEREFORE, plaintiffs request that a temporary restraining
2 order issue.

3 Dated: February 17, 1993.

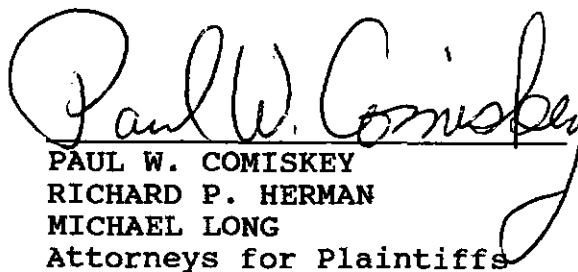
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5 PAUL W. COMISKEY
6 RICHARD P. HERMAN
7 MICHAEL LONG
8 Attorneys for Plaintiffs

EXHIBIT A

County to charge five inmates over jail riot

■ At least 30 prisoners go on a rampage, sending nine officers to the hospital. 2-17-93

By Royal Calkins
The Fresno Bee

A riot in the Fresno County Jail late Monday erupted when three suspected gang members overpowered a correctional officer, grabbed his keys and started unlocking cell doors, officials said Tuesday.

Jail: Five prisoners will be charged in riot

Continued from Page B1

concussion, but was released from a hospital before dawn Tuesday.

The disturbance began about 11:20 p.m. Within minutes, said Lt. Richard White, more than 50 Fresno police officers and California Highway Patrol officers had responded to a call for assistance.

With the other agencies providing backup, a correctional sergeant and an officer, each armed with a shotgun, entered the fifth floor and fired rubber pellets that forced the inmates to return to their three-man cells.

Sheriff's officials said cellmates David Michael Saldana, 23, Reynaldo Gonzales Calderon, 22, and Michael Lee Rodriguez, 21, all of Fresno, are expected to be charged with battery on a correctional officer, assault on a peace officer, arson, attempted escape and destruction of jail property.

Jailed on a murder charge, Saldana had been scheduled to begin a jury trial Tuesday morning. He is accused of fatally stabbing Armando Rodriguez, 41, during a gang fight in March. His trial was postponed until today.

Sheriff's officials said they also will seek assault, arson, escape and destruction charges against murder suspect Joe Duarte Mora, 24, and John William Ashbaugh, 25, of Caruthers in relation to the riot.

Mora is charged with the November 1992 slaying of doughnut shop clerk Chamroeun Im.

The existing charges against Calderon, Rodriguez and Ashbaugh could not be immediately determined, but sheriff's officials said the fact they were housed in a lockdown section, where inmates' movements are restricted, indicates they had displayed severe behavioral problems while in jail.

"These are some of your finer Fresno County citizens," jail commander Capt. Tom Gattie said facetiously.

The fifth floor houses about 240 inmates. On the midnight shift, which had begun at 11 p.m., Randolph was the lone correctional officer patrolling the floor, and he was backed up by one officer in the sealed-off control room.

Sheriff Steve Magarian, whose department runs the jail, said he would prefer to have at least one more officer on duty on each floor but can't because of the county's tight budget.

Magarian said a proposal by the county administrative office to cut \$1.8 million out of next year's jail budget is "ludicrous."

"Things like this show that it can't be done," the sheriff said. "I'm going to fight it."

Detectives were unsure, however, whether it was an escape attempt or if the instigators were trying to make a statement of some sort.

"There's all sorts of stories and probably none of them are true," said one sheriff's official.

Before being driven back to their cells by two officers firing rubber shotgun pellets, 30 or more inmates smashed equipment in a day room, set fire to mattresses and threw television sets at a glass barrier separating the cell area from a control room.

Nine law enforcement officers required hospital treatment for minor injuries, 20 others were treated at the jail for smoke inhalation and about 16 inmates were treated at the jail for minor injuries.

Believed to have suffered the most serious injury was correctional officer John Randolph. Officials said he was counting inmates when he was jumped inside a cell in a lockdown area on the fifth floor. He sustained head injuries, including a possible

Please see Jail, Page B4

ALMANAC

Inmate's family sues county

■ Sheriff Steve Magarian says the April 9 death of inmate Gregory Michael Andrews could not have been prevented.

By Pablo Lopez
The Fresno Bee

The family of a Fresno man who was sexually assaulted and strangled in the Fresno County Jail has filed a federal lawsuit against county officials, charging gross negligence in the man's death.

The suit, filed in U.S. District Court, seeks unspecified damages in the death of Gregory Michael Andrews, 31, of Fresno, who was sodomized and killed by another inmate last April 9.

The suit names Sheriff Steve Magarian, Capt. Richard Pierce and Tom Gattie, the accused killer, Ronnie Dement, and several others.

The suit alleges that correctional officers allowed inmates to drink illegal alcohol and ignored county policies by placing Andrews, a non-violent person, into overcrowded cells with violent criminals.

Magarian said Monday that Andrews' death could not have been prevented. He said the jail's classification system is recognized as a model throughout the state.

"The jail is full of dangerous inmates who kill with no notice," he said.

Sheriff officials have said that Andrews, who had convictions for being under the influence of drugs and burglaries, was considered a "career criminal" because of his time served in prison.

According to the lawsuit, Andrews was arrested April 8 on drug charges and a parole violation. He was locked in a fourth-floor cell with Dement and two other inmates.

The lawsuit says the cellmates

were drinking illegal jailhouse alcohol called "pruno," which is made of bread and juices. Dement reportedly got drunk, then taunted, beat and strangled Andrews with a towel.

"Although the beating lasted over an hour and the alarm in the cell was sounded four times, no jail officer came to the cell to investigate," said lawyer Darryl Horowitz, who, along with lawyer Sanford Jay Rosen, represents Andrews' family.

Magarian said officers don't allow inmates to drink alcohol and that no distress alarm was sounded.

Dement, 34, has been charged with murder in Fresno County Superior Court in Andrews' death. Records show he has been serving a prison term for the murder of his brother, but was returned to the Fresno jail to testify in a criminal case that was settled before his appearance.



John Walker — The Fresno Bee

Surveying ashes. Evy Metzler finally got up the courage to see for herself what happened to the little store.

Helm: Residents shocked and fearful

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Fresno jail overcrowding likely to persist despite lawsuit

■ Sheriff Steve Magarian says don't spend too much time worrying about the inmate; remember, they have victims.

By Pablo Lopez
The Fresno Bee

Although he faces a lawsuit that complains the Fresno County Jail is overcrowded, Sheriff Steve Magarian said Monday the 300 inmates sleeping on floor mattresses better get used to it.

"Jails are overcrowded across the state of California," Magarian said in response to questions about a suit filed by the Prisoners Rights Union in U.S. District Court in Fresno.

"This complaint is nothing more than

a chance for some attorney to get rich," he said.

The suit, filed Friday, says the south jail annex at M and Fresno — once the main jail — is overcrowded.

The suit also alleges that inmates are denied daily exercise time.

"The sheriff is in flagrant violation of the law," said Paul W. Comiskey, a Sacramento lawyer representing the prisoners union.

"He's got a lot of inmates who shouldn't be in jail."

Overcrowded jails are nothing new to Fresno County, which began expanding its jail system in the 1980s. At that time the old main jail, which is now the south annex, was overcrowded with inmates.

In 1987, Superior Court Judge Frank J. Creede Jr. set a limit of 864 inmates, but the 710-bed old jail routinely had a population in excess of 1,100.

Since the new 1,180-bed main jail was completed in 1989, it too has been at or above capacity, Magarian said.

Comiskey said the Prisoners Rights Union is an advocacy group for men and women in California jails and prisons and their families.

He said that in the last four years, the union has sued 14 counties over jail conditions.

Magarian and Comiskey both agree that hard-core thugs shouldn't be released to the streets.

Comiskey, however, wants Magarian to reduce the jail population by allowing more inmates to be released through alternative sentencing programs.

He said the jail population also could be reduced if Magarian gets rid of the federal and state contracts to house parole violators.

Magarian said alternative sentencing

programs are being used and that the state and federal contracts to house parole violators bring in much needed revenue.

"Right now, all we house is high-security, high-risk inmates, and I'm not going to let them out without a court order," he said.

The south annex is currently being remodeled and the third and fourth floors are unoccupied.

Comiskey said at least 10 inmates in the south annex have said inmates are sleeping on the floor.

"It's been overcrowded for months, even when it was fully occupied," he said.

But Magarian said no one is sleeping on floor mattresses in the south annex.

He said, however, that 300 inmates are sleeping on floor mattress in the main jail.

Comiskey said inmates also have been deprived of their exercise space on the roof, which has been closed during the remodeling.

He said he will petition the federal court to get prisoners off floor mattresses and to get them daily exercise time.

Magarian said inmates have been exercising in the indoor gym — where there are weight machines, Ping-Pong tables and card tables — twice a week for a total of about 3 hours.

He said overcrowded conditions will likely exist even after the renovation of the south annex is completed sometime in September — but he is not too concerned about it.

"It seems we worry too much about the inmate," Magarian said, "and forget about the victims of crime."

Rail: Southern Pacific weighs Amtrak decision

Continued from Page B1
in the public interest to link the issues."

But Southern Pacific Vice Chairman Robert F. Starzel, did just that in a letter to Costa after the Caltrans decision.

"In light of the anti-competitive effects upon us," Southern Pacific will have to carefully consider how it could continue in working toward consolidation with Santa Fe through Fresno, Starzel said. "Everyone has been assuming [consolidation] would happen, and it could, with use of

isn't budging, said spokesman Jim Drago.

"There is no decision to revisit the issue," Drago said. "We believe the decision is solid. On every issue the Santa Fe proposal was preferable. On every single count."

Drago said the next step would be to approach the California Transportation Commission for the \$57 million for improvements on the Santa Fe tracks.

That's another sore spot with Southern Pacific.

"We are in a deregulated in-

Storm: No long stay

Continued from Page B1
million acre-feet.

Kennedy called the water outlook "a very welcome contrast to the conditions of the last six years."

Storage in the state's reservoirs on Feb. 1 was about 18.2 million acre-feet, or about 75 percent of average for that date.

Last year, the reservoirs were 55 percent of average on Feb. 1.

Heavy rain and snow in the last two months have brought seasonal precipitation to about 150 percent of average so far this year. Last year at this time, the seasonal precipitation was 60 percent and the water year end-

The Sierra snowpack soaked in a little warm rainfall from the latest storm that will melt into state reservoirs if cooler temperatures don't return.

"We're not concerned at the moment," said Chet Bowling, chief of water operations for the Central Valley Project.

At Millerton Lake, the problem would come if snow melted and filled the reservoir to beyond the capacity of 520,000 acre-feet, officials said.

Millerton currently has 372,300 acre-feet of water, about 150,000 acre-feet more than it had last year.

Bee staff writers Mark Gossi and Pa-

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EXHIBIT B

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DECLARATION

I, Manuel Edward Bertao, swear as follows:

I was arrested on July 98, 1992 and brought to the Main Jail. After a few days I transferred to 4-C in the Annex Jail. I was housed in General Population. There were 65 to 71 people in a 50-man tank. Fifteen to twenty-one people would sleep on the floor at a time. They would sleep under bunks, in the middle of the aisle in the cell, and back by the toilet. I had to sleep on the floor for three months and I would sleep under a bunk or outside the in the aisle depending on what was open. There were thirteen cells, four bunks in twelve cells ad the thirteenth cell had two bunks. There were two people there. While sleeping under a bunk it was impossible to turn over. I had to sleep either on my back or stomach. There were probably two feet between the mattress and the steel slab above me. It was very claustrophobic. A person had to sleep under the bunk because people had to get down and use the toilet. We had a dayroom where we ate. There was not room to eat. When the tables were jam-packed and there were still six or seven people on the floor eating. There was a great deal of tension. I saw six or seven flights.

There was poor observation on the part of the officers. An old black gentleman named Pops fell down and was heaving up blood. It took about twenty minutes for the officer to respond. I believe this was in November because he made it back by Thanksgiving.

We got to go to the yard for exercise on Monday on the roof

1 and to the gym on Thursday on the second floor. At the gym you
2 could only play ping pong or read a book. On the roof you could
3 lift weights, play basketball or walk around. My glasses were
4 broken by an officer during a shakedown. The glasses were never
5 replaced. I slipped and fell in the shoer and it took three weeks
6 to be checked.

7 Since December 1992, I have been housed in AO Seg lock-down
8 without any write-ups on the fourth floor of the Main Jail. During
9 this entire time I had been sleeping on the floor. Where I am
10 presently housed-M-J-4A=15-I have been sleeping on the floor since
11 I came to the tank--about three weeks. There are three other men
12 in the cell and there are three bunks. This is a very small cell
13 and we only get out every other day.

14 The medical care in this jail is very poor.

15 Since I have been in jail, I feel my body is much weaker. I
16 gained about thirty pounds in jail from 175 to 205. I know that
17 because I weighed in at the doctor's office. While I was out I was
18 very active, playing football, basketball, running and other
19 physical activity.

20 When I was in the Old Annex I asked to go to the law library.
21 It took about two weeks to get to the law library. While housed
22 in the Old Annex, I was in Tank 4C. Meals were served as follows:
23 breakfast at 3:00 a.m., a sack lunch, dinner would be served at
24 6:30 or 7:00 p.m. There were a number of grievances filed about
25 the food.
26

VERIFICATION

I declare under penalty of perjury that this declaration is true of my own personal knowledge and that if called upon at trial, I am competent to testify thereto.

Dated Feb. 4, 1993, at Fresno,
California.

Signature Manuel Ed Bertao

Ref# if any _____

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DECLARATION

I, John B. Cruz swear as follows:

I am a prisoner in the Fresno County Jail. I am presently in what is called the Old Annex, Second Floor, 2-G-1.. The cell where I am housed is about eight feet wide and twenty feet long. The cell has six bunks and each bunk has two beds. At present, there are seventeen men housed in this cell. The men who do not have beds either put their mattress under a bed on the floor or somewhere in the day room. We have access to a dayroom during waking hours. There are two tables in the dayroom with benches attached to the floor. There is not enough room at the table for everyone to eat their meals. We are allowed exercise twice a week in the gymnasium on the second floor. We go for two hours each time.

In the gym there are card tables for playing cards, a ping pong table, and some weight machines. The entire tank, G1 through G4, goes at the same time. There are usually forty people at least. Some prisoners are doing church services, some are working out with weights, other are waiting, some play cards and some play ping pong. There are no facilities for basketball. It would not be advisable to run.

We are only given plastic sandals to wear and it is impossible to exercise in them.

I came to this jail on October 1 and have slept on the floor sixty to ninety days. Beds are assigned on a seniority system

1 regardless of what medical problems a person may have.

2 The law library is incomplete. It is not updated. I am only
3 allowed to go to the law library once a week for one hour. The one
4 hour includes the time it takes to get to the law library. There
5 are no supplies in the law library; you are only given a pen.

6 In about November, I felt my tooth hurting. I went to the
7 doctor about three weeks later. He looked in my mouth and said he
8 saw no abscess. He pushed on the outside. He said this is a
9 Priority II. About three weeks later, I saw the dentist, Dr.
10 McLoy. He said we don't do root canals, or drilling; we only pull
11 teeth.

12 I had no prompt probable cause for detention hearing that I
13 know about.

14 I declare under penalty of perjury that the foregoing is true
15 and correct. Executed on _____, at
16 _____, California.

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19 JOHN CRUZ
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VERIFICATION

I declare under penalty of perjury that this declaration is true of my own personal knowledge and that if called upon at trial I am competent to testify thereto.

Dated Feb. 4, 1993, at Fresno
California.

Signature_____

Ref# if any_____

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DECLARATION

I, Roger Dana Hausman, swear as follows:

I am a prisoner in the Fresno County Main Jail. I came here on May 12, 1991. I was 4MJ4-A-7. This was general population. There were forty-two to forty-five people in each pod. They had two beds in each cell for a total capacity of thirty-two. The moved me to 4-C, same thing. Then I went to C-7--I moved six or seven times. In all these moves, predatory prisoners were housed with defenseless prisoners. People were sleeping on the floor in all these places. I am a jailhouse lawyer and I trade legal skills for a bunk.

On February 4, 1993, there were 55 people in Pod A, third floor, Main Jail. On Friday evening, they moved prisoners from the Old Jail. On February 6, the count was seventy-one persons. On February 7, 1993, there were more than seventy-one persons. Somebody flushed a sheet in their toilet; there was an obstruction in the toilet in 3-A-15. Every time a toilet flushed, gallons of human waste poured out on the floor. I asked the officer to cut off the water. By the time we had breakfast, seventy-five people were eating with two inches of human waste on the floor. Human waste got all over the mattresses, sheets and blankets. The flooding was in retaliation for overcrowding--people were eating with feces, urine and sanitary pads on the floor. Some of the mattresses still have urine and feces on them.

VERIFICATION

I declare under penalty of perjury that the foregoing is true
of my own personal knowledge and that I could testify to these
facts at trial.

Dated Feb 12, 1993 1991 at Fresno, California

Ryan J. Hollman

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DECLARATION

I, Rebecca Montero-Salcedo, swear as follows:

I am a prisoner in the Fresno County Jail, and I am charged with 1150 Health & Safety Code, possession of drugs. I was arrested on November 16, 1992. When I first came to the jail, I told the nurse at booking that I was detoxing and would be very sick. She told me that I would have to get through on my own. I was locked in FF3, Isolation. I stayed there about a month. Then they moved me to A Pod. This a lock-down unit. We get out every other day for a thirty minutes. Sometimes the guards forget and don't do this. When I moved into A Pod, there were three people in the cell. I had to sleep on the floor about two weeks. The cell is a two-person cell. It has two beds, a toilet and a sink. When it rains, water comes into our cell. The mattress is squeezed between the toilet and the bottom bunk. When the person a the bunk get down, it is necessary for the person on the floor to get up. If a person uses the toilet, their feet would be on the mattress. There is a small desk service for three people to use. There is no place to eat food. It is necessary to put it on the floor to eat.

When we come out of our room to go to the shower, we are instructed not to talk to anyone but to go directly to the shower. We have half an hour every day to use the shower and/or telephone. Shower times are from 3:00 p.m. to 11:00 p.m. We get fed between 3:30 a.m. and 5:00 a.m. Count time is between 9:00 and 9:30 a.m.

1 Medications come between 7:00 and 8:00 p.m. During those times,
2 no one is allowed out of their room. When you count ten cells for
3 thirty minutes per day, somebody is shorted all the time.
4 Telephone calls are allowed only after 3:00 p.m. Showers usually
5 don't start until 4:00 p.m. anyway. It is impossible to reach
6 lawyers, drug programs, etc.

7 We get out for exercise once a week for forty-five minutes.
8 There is nothing up there for the women like basketball or ping
9 pong. The level of exercise is terrible. You get stressed out
10 being there. When it starts raining, we get all wet. Lack of
11 exercise affects your health. You are in the same small room with
12 two other women. Personal hygiene gets bad. There is a lot of
13 stress from overcrowding. There is fighting and arguing.

14 I have been coming to this jail since 1989 and have been in
15 lock-down since that time for getting into a fist fight with
16 another women. There have been no violent incidents since that
17 time. When I need help I push a button in my room.

18 In 1991, a friend of mine died. We all pushed buttons but
19 it took an hour to get her out of the cell. Clothing is not
20 exchanged often enough. Women wash clothes in their cell and hang
21 them to dry. This adds to the overcrowding.

22 There is no reason for a person like me to be locked-down.
23 I have never committed a violent crime, and I am not in protective
24 custody. I have never gone personally to a classification since
25 I have been here. I have requested to go to general population,
26 but they do not even answer my letter. One of the biggest

1 problems is overcrowding, lack of time to use the telephone,
2 shower and lack of ability to exercise. There were three people
3 in my two-bunk cell until the day before yesterday. During almost
4 the whole time I have been in A Pod there has been a person
5 sleeping on the floor. The overcrowding causes the ventilation
6 system to be inadequate. In effect, it is freezing. You can't
7 get out of your bed for anything. You have to wear socks on your
8 hands and both jumpsuits. The medical care is inadequate because
9 of the overcrowding. It takes forty-eight hours to answer a
10 medical request.
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VERIFICATION

I declare under penalty of perjury that the foregoing is true
of my own personal knowledge and that I could testify to these
facts at trial.

Dated Feb. 12 __, 1993 at Fresno, California

X Rebecca Salcido

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3 DECLARATION
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5 I, Charles Richard Wilbanks, swear as follows:

6 I was arrested on November 8, 1992, and brought to the Fresno
7 Main Jail. I arrived around 2:00 a.m. I arrived on Monday around
8 noon on Floor 3, Pod A, of the Main Jail, Cell 10. There are
9 three bunks in cell 10. There are now five prisoners in Cell 3.
10 I am presently housed in Cell 4. There are five there also.
11 Prisoners sleep on the floor, one is under the bottom bunk and one
12 is in the aisle. The prisoner under (I have the bottom bunk) is
13 6 feet 2 inches, thin, 170 pounds. Whenever he turns over he
14 bumps the bunk and wakes me up. He is an epileptic, so I have to
15 make sure he is not having a seizure. The prisoner in the aisle
16 is right in the walkway. If I want to go to the toilet, I have
17 to get him up. His head is four feet from the toilet. We have
18 had four or five people in the cell for a month. There is a great
19 deal of tension. Five different personalities, five people
20 fighting their cases and people doing time.

21 I got in a fight myself and split up a couple in the last
22 day. In the pod there are 48 beds and sixteen cells. There are
23 forty-eight seats for meals. There are now seventy-four or
24 seventy-five people in the pod. The dayroom is extremely noisy.
25 The only personal spot you can find is to take a shower.

26 We go to gym once a week for about an hour. We are allowed
27 on the roof on another day for an hour. It is necessary to eat
28 dinner sitting on the floor. When we come out for breakfast

1 because of the overcrowding, people bunch up together to be first
2 in line. They wake us up at 3:00 a.m. to 5:00 a.m. for breakfast.
3 If you don't get up for breakfast, you don't get your sack lunch
4 and you won't get dinner until 5:00 p.m.

5 It is so overcrowded in here that a man who is having dizzy
6 spells waits for a long time to see a doctor. It is possible to
7 do calisthenics but if seventy-people need calisthenics, it would
8 smell like a swine barn. There would not be no room for everyone
9 to do exercises. You cannot hear when you talk to people over the
10 phone. When I came here, there were thirty or more people in the
11 pod. Now there are seventy-five. The noise is terrible, and there
12 are people everywhere. It is like being in a shopping mall at
13 Christmas time.

VERIFICATION

I declare under penalty of perjury that the foregoing is true
of my own personal knowledge and that I could testify to these
facts at trial.

Dated Feb. 12, 1993 at Glenn, California

Charles W. Barber

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DECLARATION

I, Ruben D. Cruz, swear as follows:

I am presently a prisoner in the Fresno County Jail, in the Old Annex, Second Floor, Cell Block G, Cell 2 (AJ2G2). The cell dimensions are about eight feet by twenty feet. In our cell there are six bunks of two beds. We have each of the twelve beds filled at all times and we usually have six people sleeping under the beds on the floor. We have had as many as eight people on the floor (twenty people overall in the cell) sleeping at one time.

The bottom bed is about two feet off the ground. A man sleeping in a bed has almost no room to turn over. A medium or large man could not roll over. The floor is cold. The mattress issued is about two inches thick. The cold has led to a pain in my elbow (from the hard concrete floor as well). Two of the men sleeping on the floor must sleep on either side of the toilet. We try not to use the toilet for their sake. They accidentally get sprinkled with urine now and again. Further, one person next to the toilet is also over an air vent which causes a cold draft. Many people get colds due to the draft.

I slept on the floor from January 1, 1993 until about one week ago. The men who have been in the jail longest get the beds.

We have access to the dayroom adjoining our cell at all times. With eighteen people in our cell, not everyone can eat at the two tables in the dayroom. The extra people must eat while seated on the floor, toilet or a bed.

1 The overcrowded situation leads to tension among the
2 cellmates. This has caused many arguments.

3 Each week we have two visits to the gym for about one and a
4 half hours. The days are Thursday and Saturday. We can do
5 weights, ping pong, game tables, some books. All people from G1
6 to G4 are in the gym at the same time. Not everyone goes each
7 time, but there are usually at least twenty to thirty at a time.

8 I am allowed a maximum of one hour per week in the law
9 library. Sometimes they do not allow me to use it at all in a
10 week. About eight to ten men use the library at one time. The one
11 hour per week is not enough to prepare my case.

12 If I put in a medical emergency request, the response time is
13 three to four days. I often spend the night in pain waiting to be
14 seen by a doctor. When I requested emergency psychiatric help, I
15 was not seen for one week.

16 The stockings they issue all have holes in them, in the heels
17 and the toes. The issued sandals are also torn.

18 The meal serving trays have mold buildup from lack of washing.
19 The trays smell bad due to the mold.
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VERIFICATION

I declare under penalty of perjury that this declaration is true of my own personal knowledge and that if called upon at trial, I am competent to testify thereto.

Dated Feb. 4-93 __, 1993, at Fresno,
California.

Signature Ruben Perez

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DECLARATION

I, Joseph Q. Krukowski, swear as follows:

I am currently a prisoner in Fresno County Jail, Old Annex, AJ2G3. My group cell is about eight or nine feet by twenty or twenty-one feet.

The cell has twelve beds, each filled, and we have five to eight people sleeping on the floor. The two newest men sleep on the floor near the toilet. The newest sleeps next to a vent. Water from the shower often leaks through the vent and makes his mattress wet. The mattresses vary from about one-and-half to four inches thick. The room would be okay for twelve men, but it is far too small for seventeen to twenty.

From December 8, 1992 until about January 31, 1993 I slept on the floor. I am 6'3: and 205 pounds. I could not roll over. The bed above me was about twelve inches from my face. As I have been here awhile, I have enough seniority for a bed.

The lack of room in the cell and dayroom causes tension. The tables hold six people each comfortably. The rest must sit elsewhere to eat. The tension leads to many arguments. Often people have to restrain themselves from fighting.

We have access to the law library for one hour once a week. Using the library is hardly worth it because they do not allow you enough time to do research and because too many people use it at one time. The copy machine is always in use. I stopped using the library because of that. I often see the law library empty.

1 Better use could be made of it if the visits were longer with fewer
2 people using it at one time.

3 We are allowed to use the gym twice a week for one-and-a-half
4 to one and three-quarters hours each, including travel time to the
5 gym. All cells G1 to G4 use it at the same time. Forty to fifty
6 men use it at the same time. There are three universal systems.
7 Only about ten to fifteen people can work out at one time. I have
8 to stand around quite a bit waiting for the exercise machines.
9 This makes workouts almost worthless.

10 Many of our eating trays are falling apart and moldy. Layers
11 of plastic are peeling off. The mold is grayish.

12 When one person gets sick the whole cell gets sick because
13 there is no where to escape. The people on the floor get sick
14 first because of the cold, damp and drafty floor. They spread the
15 sickness to the others.

16 Cleaning supplies like detergent should be provided to clean
17 off our tables. We have had one rag (the same one) since I entered
18 the cell. The rag is filthy and I can't get myself to touch it.
19 We can't use it to clean our cell.

20 Our toilet overflowed once and it took about six hours for
21 security to respond and fix it.

22 Most often there are no guards patrolling the hallways near
23 our cells. When our emergencies come up such as disputes, medical
24 problems, we have to push a button. Sometimes it takes five to ten
25 minutes to get a response. In a true emergency, this could be a
26 big problem.

VERIFICATION

I declare under penalty of perjury that this declaration is true of my own personal knowledge and that if called upon at trial, I am competent to testify thereto.

Dated 2-4-93 __, 199__, at _____,
California.

Signature Joseph Kurkowski
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DECLARATION

I, Douglas Everett Murphy, swear as follows:

I am presently a prisoner in Fresno County Jail, Old Annex, Second Floor, Cell Block G, Cell 4 (AJ2G4). My cell is approximately ten by twenty feet in size.

The G4 cell has six bunk beds of two beds each. The twelve beds are always used. Currently, there are an additional four people sleeping on the floor. We have had as many as eight people sleeping on the floor at a time. The beds/floor space is assigned by prisoner agreement, on a "seniority" basis. The newest prisoner gets the worst floor space, over by the toilet. We only use that toilet when absolutely necessary, out of courtesy to the inmate. The man sleeping near the toilet often gets his mattress soaked from the shower run-off. Most often the guards do nothing about the soaked mattress. We have to complain a lot to get dry sheets for the prisoner. The wet mattress is never replaced.

When we had twenty people in our cell, six would sleep under the beds, one under the telephone and one on a table in the dayroom. The person on the table cannot sleep in anyone else is wake because the day room would be in use.

The more crowded the cell the more tension there is between the cellmates. When we had twenty men in the cell, fights came very close to breaking out each day. The cell is much less tense when it is less crowded.

I have not been outside in the open air since January 5, 1993.

1 Since the roof has been closed off, no one gets to go outside
2 except trustees. This lack of fresh air adds to the tension among
3 the cellmates.

4 We get to visit the gym twice per week for one and a half
5 hours at a time. In the gym we can lift weights, read, use game
6 tables, play ping pong or listen to music. There is supposed to
7 be an "athletic director," but she has not been there for at least
8 a month. People have to figure out how to use the equipment on
9 their own. I use the weight equipment. However, there are too
10 many people using the equipment at one time to get a proper
11 workout. Only two decks of cards per pod (G1 or G2) are given out
12 per month. Given that there is not much else to do, we need more
13 than that.

14 We are fed a 3:00 a.m., a sack lunch and at 5:00-6:00 p.m.
15 e are fed the same amount whether we are small or big. Large
16 people are underfed.

17 Our cell was incredibly cold for awhile. We had to complain
18 for a long time to get adequate heating.

VERIFICATION

I declare under penalty of perjury that this declaration is true of my own personal knowledge and that if called upon at trial, I am competent to testify thereto.

Dated Feb. 4, 1999 at Presno,
California.

Signature Douglas E. Muesly

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DECLARATION

I, John Larry Cole, swear as follows:

I am a prisoner in the Fresno County Jail. I came into this jail on January 11, 1993 to serve a sentence. Since being here I have been housed in Annex Jail 2-G-1. There are seventeen men in this cell. There are twelve beds. I have been sleeping on the floor for three weeks. I got a bunk three days ago. Bunks are given on the basis of seniority. When I was sleeping on the floor, I slept under a bunk. The bunk was approximately eighteen inches off the floor. It is impossible to get comfortable. I slept next to an exhaust vent. My nose was always clogged in the morning.

There is not enough room to eat. Everybody has to put his tray on the table and stand. I have had to put my tray on the toilet and sit on the bunk. The space under the bunk is so small that many of the men cannot get under the bunk. They sleep with part of their bodies outside the bunk.

Since I have been here, exercise is available twice a week. I lift weights in the gym. There are not many people who use the weights. Twenty-five to thirty people at a time go to the gym. The air is stagnant in the gym.

VERIFICATION

I declare under penalty of perjury that the foregoing is true
of my own personal knowledge and that I could testify to these
facts at trial.

Dated Feb. 4, 1993 at Fresno, California

* Johny L. Cole

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DECLARATION

I, Timothy Blake Pendergas, swear as follows:

I am a prisoner in the Fresno County Jail. I am housed in the Old Annex, AJ-2-G-1. I have been there since I have been in the jail. When I first got here there were nineteen people in the cell. Now we are down to seventeen. There are twelve bunks in the cell.

When there were nineteen in the cell, twelve slept in a bunk and seven on the floor. Of the seven, two slept on the left side under the bunks, three slept on the right side under the bunk, one slept under the phone booth and I sleep in the day area between the tables. This lasted for the first week and a half while I was there. I weight about 260 pounds and am 6'2 1/2" tall. It is very uncomfortable for me to sleep under a bunk. I get pains in side of my leg from sleeping in the same position for so long. People above me step on me, bump me, wake me up when they are getting in and out. We don't use the toilet in the cell because it is too close quarters. I have noticed a lot of tension because of the crowding. It is very stressful. I saw one fight because people were getting nervous. Before I came to the jail I exercised by riding a bicycle. I use the weights now and then. I try to sleep while everybody goes to the gym. It is too crowded to exercise in the cell or dayroom. The air is very stuffy and bad. It is a

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DECLARATION

I, Timothy Blake Pendergas, swear as follows:

I am a prisoner in the Fresno County Jail. I am housed in the Old Annex, AJ-2-G-1. I have been there since I have been in the jail. When I first got here there were nineteen people in the cell. Now we are down to seventeen. There are twelve bunks in the cell.

When there were nineteen in the cell, twelve slept in a bunk and seven on the floor. Of the seven, two slept on the left side under the bunks, three slept on the right side under the bunk, one slept under the phone booth and I sleep in the day area between the tables. This lasted for the first week and a half while I was there. I weight about 260 pounds and am 6'2 1/2" tall. It is very uncomfortable for me to sleep under a bunk. I get pains in side of my leg from sleeping in the same position for so long. People above me step on me, bump me, wake me up when they are getting in and out. We don't use the toilet in the cell because it is too close quarters. I have noticed a lot of tension because of the crowding. It is very stressful. I saw one fight because people were getting nervous. Before I came to the jail I exercised by riding a bicycle. I use the weights now and then. I try to sleep while everybody goes to the gym. It is too crowded to exercise in the cell or dayroom. The air is very stuffy and bad. It is a cesspool there. The vent system works but there are too many people in too small a space.

VERIFICATION

I declare under penalty of perjury that the foregoing is true
of my own personal knowledge and that I could testify to these
facts at trial.

Dated Feb 4 93, 1991 at Fresno CO, California



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DECLARATION

I, Richard Ruiz swear as follows:

I am a currently a prisoner in Fresno County Jail, South Annex, first floor, Cell block A, Cell No. 1 (AJ1A1).

I have been incarcerated in the Fresno County Jail since December 7, 1992.

The cell in which I am held in A pod is approximately 50 by 100 feet in dimension. The cell has many bunk beds of two or three beds each for a total of seventy beds. Since I have been incarcerated, each of the seventy beds has been occupied. In addition to the seventy prisoners who sleep on the beds, many more inmates sleep on the floor on mattresses.

Up until Saturday, February 6, 1993, all seventy beds were filled at all times. In addition, to these men, we had up to twenty-five men sleeping on the floor, but usually twenty men on the floor. Each of the twenty to twenty-five men slept on a mattress on the floor, without a pillow. The overcrowded situation made everyone tense and edgy. It led to many fights and even riots. Several inmates got beaten up badly without guards noticing because the guards only supervise during the body count in the morning and before bedtime. Some men sleep under the beds and some in the aisles, wherever there is room.

Men get stepped on very often because of the floor sleeping situation.

The overcrowding leads to unsanitary conditions, including

1 mildew on the walls, plaster falling off the wall (stucco wire is
2 exposed), plugged up toilets and sinks, pitch-black air filters for
3 the air-conditioning vents, among other conditions, including
4 cockroaches.

5 Our dayroom is part of our 50 by 100 foot room. It is only
6 two tables of six chairs each. The only time we get to leave this
7 room is to go to the gym twice a week. We can lift weights in
8 there and play ping pong. There is no basketball hoop. We have
9 two hours access to the gym, twice a week. Aside from this we only
10 leave the room for visitors and interviews.

11 Beginning Saturday, February 6, 1993, men started being
12 removed from the cell. Now there are less than seventy people in
13 the cell. Some beds are empty. This helps a lot. The situation
14 is less tense. Fewer fights have broken out, on a relative scale,
15 since then.

16 I declare under penalty of perjury that the foregoing is true
17 and correct. Executed on _____, at
18 _____, California.

19
20 RICHARD RUIZ
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DECLARATION

I, Richard Ruiz, swear as follows: I am currently a prisoner in Fresno County Jail, South Annex, 1st Floor, cell block A, cell no 1 (A11A1). I have been incarcerated in the Fresno County Jail since December 7, 1992.

The cell in which I am held in A pod is approximately 50 by 100 feet in dimensions. The cell has many bunk beds of 2 or 3 beds each. Since I have been incarcerated, each of the 70 beds has been occupied. In addition to the 70 prisoners who sleep on the beds, many more inmates sleep on the floor on mattresses.

~~Up until the week of February~~

Up until Sunday February 6, 1993 all 70 beds were filled at all times. In addition, these men, we had up to 25 men sleeping on the floor, but usually 20 men on the floor. Each of the 20-25 men slept on a mattress on the floor, without a pillow. The overcrowded situation made every one tense and edgy. It led to many fights and even riots. Several inmates got beat up badly without guards noticing because the guards only supervise during the head count in the morning and before bed time. Some men sleep under the beds and some in the aisles. Wherever there is room.

NAME: Richard J. Ruiz FACILITY:

PG

Men get stepped on very often because of the floor - sleeping situation.

The overcrowding leads to unsanitary conditions, including mildew on the walls, plaster falling off the wall (stucco wire is exposed), plugged up toilets and sinks, patch black ^{or} filters for the air conditioning vents, among other conditions, including cockroaches.

One day room is part of one 50 x 100 foot room. It is only two tables of six chairs each. The only time we get to leave this room is to go to the gym twice a week. We can lift weights in there and play ping pong. There is no basketball hoop. We have two hours access to the gym, twice a week. Aside from this we only leave the room for visitors + interviews.

Beginning Saturday February 6, 1993 men started being removed from the cell. Now there are less than 70 people in the cell. Some beds are empty. This helps a lot. The situation is less tense. Less fights have broken out, and a rebuke scale, since then.

I declare under penalty of perjury that the above is true + correct. Executed February 12, 1993 at Fresno, CA.

Richard P. King